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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Carriage of the Transmissions of Digital)
Television Broadcast Stations) CS Docket No. 98-120
)
Amendment to Part 76 of the)
Commission's Rules)

To: The Commission

COMMENTS OF KSLS, INC. AND KHLS, INC.

KSLS, Inc., licensee of television station KSCI(TV), Long Beach, California (hereinafter "KSCI"), and KHLS, Inc., licensee of television station KIKU(TV), Honolulu, Hawaii (hereinafter "KIKU"), hereby submit these Comments with respect to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding. KSCI and KIKU support full must carry rights for digital television stations during the transition period.

Background

KSCI and KIKU are independent UHF stations carrying predominantly Asian language programs.* KSCI currently depends on cable carriage to reach 63% of the television households in Southern California; KIKU depends on cable carriage to reach 88% of the television households in Hawaii. Must-carry regulations therefore have been essential to the survival of these stations and this type of free, narrowly-focused programming. Unable to negotiate retransmission consent agreements, both stations have elected must carry on every cable system in their service areas.

* KSCI also programs a significant portion of programming in Middle Eastern languages.

Based on past experience, it is believed that without must carry regulations these stations would suffer non-carriage of their analog signals on a majority of the cable systems within their respective television markets, and particularly in Southern California.

Both stations are scheduled to launch digital operations in 1999, and it will be equally important that these two new digital signals also receive full must carry protection. It is anticipated that Stations KSCI-DT and KIKU-DT each will offer a schedule of original foreign language programming. A significant portion of this programming will be local in nature, providing additional news, public affairs, and cultural programming specifically for the ethnic populations living in the stations' respective service areas, programming which is unavailable from any cable network.

The Need for DTV Must Carry

Because people of ethnic origin constitute a small percentage of most cable systems' subscriber bases, it is highly unlikely that cable systems in Southern California would choose to carry the KSCI-DT signal, thus severely restricting the ability of the station's viewers to receive this unique programming. The same situation could prevail in Hawaii.

With a limited number of potential viewers, KSLS, Inc. and KHLS, Inc. would be forced to forsake their ambitious DTV programming plans. It would be difficult to justify the increased programming, production and operational costs required to mount a successful DTV channel if household penetration is restricted. Instead, the digital stations would undoubtedly be forced to simulcast the program schedules of their associated analog facilities for the duration of the transition period. This would deprive Asian Americans in Southern California (who constitute 12% of the population) the opportunity to view the additional Asian language programming that would only be

offered on KSCI-DT. The same result would occur in Hawaii where the Asian population percentage is even greater.

Time is of the Essence

If the growth of digital television penetration is to be achieved on a timely basis, it must be done with original programming on the new channels, not with simulcasts of programs already available on analog stations. Original programming can only be offered if household penetration is sufficient to support it. Therefore, the rapid growth of DTV can only be achieved with full must carry requirements in place at the outset of the transition period.

Special Needs of Foreign Language Broadcasters

Mandatory DTV carriage should not supersede analog must carry requirements. The need for analog channel protection does not diminish during the transition period for foreign language programmers. The limited economic resources of independent foreign language stations, such as KSCI and KIKU, make full must carry an absolute requirement for the successful launch of their digital facilities, and for the future of digital television in the United States. These stations serve ethnic groups that are mostly unserved by other stations. They deliver local news stories and public service information that is not covered by so-called mainstream stations. Without full must carry, many foreign language stations will no longer be able to continue serving Asian Americans or other minority groups. They will be forced to change to more conventional formats, thus depriving millions of viewers in multicultural communities the benefits of digital, foreign language television service during the transition period. This would not serve the best interests of America's fast-growing ethnic population or be consistent with the intent of Congress and the Commission to offer digital television service to all Americans as soon as possible.

Conclusion

WHEREFORE, KSLS, Inc. and KHLS, Inc. strongly urge the Commission to adopt full must carry for all digital television stations during the transition period, and respectfully request that the Federal Communications Commission adopt rules in this proceeding fully consistent with the foregoing statement.

Respectfully submitted,

KSLS, Inc. and KHLS, Inc.

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